

# The Federal Flyer

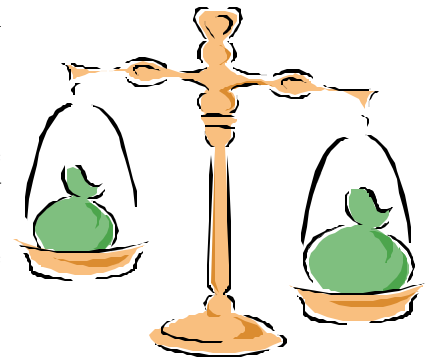
## Senate EPW Committee Marks Up TEA 21 Reauthorization Bill *Missing Provisions on Equity, Environment, & Funding Concern Senators*

On November 12, the **Senate Environment and Public Works Committee** voted 17-2 to approve **S. 1072, an amended version of the Bush Administration's Safe, Accountable, Flexible, and Efficient Transportation Equity Act of 2003 (SAFETEA)**. The EPW Committee is now the second authorizing committee to take action toward reauthorizing the expired TEA 21 law. (The Senate Commerce, Science, and Transportation Committee passed its bill to reauthorize federal highway safety and motor carrier safety programs earlier this year.) As amended, the EPW Committee's version of S. 1072 provides a six-year surface transportation reauthorization proposal for highway programs.

**EPW Bill Is Silent on Equity Provisions.** The bill is missing critical provisions such as the funding distribution formula, currently under the Minimum Guarantee, and the resulting state-by-state funding allocations. **Committee Chairman James Inhofe** (R - Oklahoma), **Ranking Member James Jeffords** (I - Vermont), **Transportation & Infrastructure Subcommittee Chairman Kit Bond** (R - Missouri), and **Subcommittee Ranking Member Harry Reid** (D - Nevada) promised that every state would see at least a 10% increase in its highway funding and all states would reach a minimum 95% rate of return by Fiscal Year 2009. However, no details on how this would be accomplished in the highway program have been released and won't be released until next year. Members of the committee (including **Texas Senator John Cornyn**) were given only a verbal disclosure of their state's promised federal-aid highway funding level for the next six years. As a result, only the committee leadership knows how all states are affected in the proposed distribution.

The Chairman attempted to placate members by promising full disclosure of funding formula mechanics and state-by-state allocations early next year at a members-only meeting the day of the State of Union Address (usually presented in late January). However, **Florida Senator Bob Graham** (D) waged a strong, but losing battle in the committee markup, making repeated attempts to have this important highway funding language included in the bill or at least allow the committee to markup that section separately at a later time. Graham called the leadership's failure to provide the details of the funding distributions a "dereliction of duty." Despite his efforts, the committee voted out the bill (17-2) without any further disclosure of the funding distribution provisions.

The bill as passed by the EPW Committee contains no provisions for distributing federal-aid highway funds among the states, including any provisions providing a guaranteed distribution share. If the bill were enacted as it stands today, the Minimum Guarantee calculation would be eliminated. The committee leadership has promised that they plan to replace the Minimum Guarantee provision in TEA 21 with a new Equity Bonus. However, again, no details on how that provision would work have been released, leaving in jeopardy the promise for improved equity in highway funding distributions.



**What We Do Know About the Bill.** The bill as reported authorizes \$247 billion for highways and public transit for FY 2004-FY 2009. Specifically, \$201 billion would be authorized for highways and safety spending and \$46 billion for transit. The EPW Committee has jurisdiction only over the highway portions of the federal transportation program. Changes to federal transit programs will be written by the Senate Banking, Housing, and Urban Affairs Committee.

The EPW bill would maintain the current tax structure for financing federal-aid highways through various federal excise taxes and redirect the 2.5-cent per gallon gasohol tax now deposited into the General Fund to the highway account of the Highway Trust Fund. However, the Senate Finance Committee has responsibility for crafting the financing mechanisms for the bill. That committee has not yet drafted its proposals for TEA 21 reauthorization funding.

Under the EPW bill, core highway programs would be funded as follows over six years:

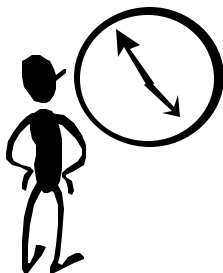
- Interstate Maintenance Program: \$38.2 billion;
- Surface Transportation Program: \$47.8 billion;
- National Highway System: \$46.4 billion;
- Bridge Program: \$32.5 billion;
- Minimum Guarantee Program: to be determined;
- Congestion Mitigation and Air Quality Improvement Program: \$13.02 billion;
- New Infrastructure Performance and Maintenance Program: \$12.0 billion; and
- New Highway Safety Improvement Program: \$7.9 billion.

The committee bill also would split the Borders & Corridors program into two separate programs and provide approximately \$1 billion in total funding for each program. Senators plan to offer amendments to further direct the funding for these two discretionary programs when the bill reaches the Senate floor next year.

The committee voted to accept several amendments en bloc and many others were considered independently during the three-hour markup. Of those adopted, the amendments would:

- direct funding for intermodal freight movement and promote new financing strategies to leverage state, local, and private investment in freight transportation gateways;
- clarify transfers of funds between federal highway programs and transit programs;
- modify the Transportation Infrastructure Finance and Innovation Act (TIFIA) loan program by eliminating the use of local servicers to manage TIFIA loans, expanding the definition of freight-related projects eligible for TIFIA to include publicly-owned freight rail facilities and privately-owned freight rail facilities providing public benefit, and lowering the threshold eligibility per project from \$100 million to \$50 million;
- provide additional resources to state offices of historic preservation, tribal historic preservation, or the Advisory Council on Historic Preservation to expedite the historic preservation review and consultation process;
- provide research funding to study "thermal collapse" in cold climates;
- require states to set-aside 2 percent of their Surface Transportation Program (STP) funding for storm water mitigation programs and projects that reduce storm water runoff from surface transportation projects;
- maintain existing suballocations of STP funds divided between statewide funds and metropolitan area funds;
- increase authorized funding levels from \$100 million to \$200 million annually for active warning devices on roads near railway-highway crossings and increase the proposed Safe Routes to Schools Program funding from \$50 million to \$70 million annually;
- include passenger and freight rail in the National Surface Transportation System study;
- modify the current State Infrastructure Bank (SIB) program to allow any state that enters into a cooperative agreement to establish a SIB or multi-state infrastructure bank; and
- increase the set-aside percentage from 1 percent to 1.5 percent for metropolitan planning organizations.

Numerous amendments to harness the current runaway earmarking by Congressional appropriators of the Border and Corridor programs, to modify the environmental review process, and to allow states the option to toll interstates all failed. However, expect senators to bring these issues up again in floor debate.



**Forecast.** House Transportation and Infrastructure Committee leaders have announced their intentions to disclose their bill, also absent state funding formulas, next week. The target funding goal for their proposal is \$375 billion, with no funding offsets identified other than to generate new revenue by increasing the federal gas tax by five cents and indexing the tax for inflation. As in the Senate, the House Ways and Means Committee ultimately will decide the source of any additional funding for transportation programs.

The current extension of TEA-21 expires February 29, 2004. Legislators will need to enact another extension or complete a full reauthorization bill by that date. Given the unresolved issues surrounding donor state equity, environmental streamlining, and highway trust fund taxes, it is unlikely that Congress will be able to pass a full six-year reauthorization by that deadline. Instead, we can expect another short-term extension of current law.

## FY 2004 Transportation/Treasury Conference Report Nearing Completion

### *Congress Working to Wrap up Transportation Spending Bill Agreement*

House and Senate conferees late Wednesday approved an \$88.9 billion FY 2004 Transportation-Treasury appropriations bill. The measure represents a \$500 million increase over President Bush's request and a \$4.9 billion boost over FY 2003 spending. It includes \$1.2 billion for Amtrak, close to what railroad officials say is needed to keep trains running and maintenance on track, as well as \$33.8 billion for highway spending, \$14 billion for the federal aviation program (despite the lack of an underlying authorization), and \$7.3 billion for capital investments in mass transit.

The details on the final agreements affecting the various discretionary program earmarks (in both highways and transit programs) are unavailable at this time. We'll provide the final Texas earmark figures in the next issue of the **Flyer**.

With only a week left before the November 21, 2003 target adjournment date for this first session of the 108th Congress, any spending bills that have not made it through conference will be rolled together into an omnibus spending bill. The conference report on the FY 2004 Transportation-Treasury bill is expected to win separate approval in both houses next week and be sent to the White House for the President's signature. At that time, federal transportation programs will begin receiving regular funding, at least until the current authorization lapses on February 29, 2004.

The **Federal Flyer** is a publication of the TxDOT Legislative Affairs Office. It is intended to provide up-to-date information on major legislative activities in the 108th Congress for the management of the Texas Department of Transportation, state leaders, and others interested in Texas transportation issues. This report will also feature key activities in the national transportation community. Sources include news services and staff reports.

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